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SUBJECT: FIRST MEETING OF THE JOINT COMMISSION ON PSD ISSUES

REF: A. BAGHDAD 03307
[1](#)B. BAGHDAD 03257

Classified By: Deputy Chief of Mission Patricia A. Butenis for reasons
1.4 (b) and (d)

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Summary

(C) 1. The first meeting of the Joint Commission on Private Security Detail (PSD) issues was held on October 7 at the Ministry of Defense, co-chaired by the Deputy Chief of Mission (DCM) and the Minister of Defense (MOD). The Iraqi participants gave the impression that they intend to use the commission as a vehicle for fact finding on the September 16 incident and for imposing discipline on what they see as excessive measures by Embassy PSDs. The MOD reported that the GOI investigation into the incident was incomplete as they had not had access to the Americans involved in this incident, but said the findings indicated that the PSD response was disproportionate and that there was no evidence that the PSD had been attacked. The DCM explained the status of the U.S. investigations, the review of PSD operations in general by the Review Panel headed by Ambassador Kennedy, and suggested specific steps the Embassy was ready to implement regarding PSD operations. The co-chairs discussed the scope of the commission's inquiry and some of the desired outcomes, upon which both sides seemed to be in general agreement. The commission agreed to release only limited information to the press at this early stage in the commission's activities, per the Iraqis' request. End Summary

Joint Commission Co-Chairs Hold Pre-meeting

(C) 2. The DCM and Embassy Legal Adviser met with the MOD before the full Joint Commission meeting to discuss goals and terms of reference. The DCM said that the Embassy was ready to discuss PSD operations in general within the scope of the commission. The DCM expressed concern that GOI reports of alleged PSD incidents were not reaching the Embassy and noted that one specific outcome from the commission should be the creation of a mechanism through which the GOI could share information and concerns about PSD incidents directly with the Embassy.

(C) 4. The DCM explained that the United States was considering condolence payments and would welcome the views of the MOD and commission on this topic. The MOD cautioned that some Iraqis had exaggerated ideas about compensation. They also discussed a draft press statement for joint release after the commission's meeting.

Joint Commission Meeting

(C) 5. The Iraqi Commission members present were the MOD, the Kharakh Operations Commander, two advisors from the State Ministry for National Security Affairs, the Deputy Chief of the National Agency for Information and Investigation, and an advisor from the Prime Minister's Office. The USG was represented by the DCM, the Acting Political Military Counselor, the Regional Security Officer, the Deputy Chief of Staff of MNF-I's Strategic Operations, the Deputy Commanding General of 1st Cavalry Division Multinational Corps Iraq, the Embassy Legal Adviser, The Staff Judge Advocate of MNF-I, and the Director of the Embassy's International Narcotics and Law Enforcement office.

(C) 6. The MOD opened the meeting by describing the results of the Iraqi investigation into the September 16 incident. This investigation included only the accounts of those injured in the incident and of Iraqi witnesses, and evidence about the types of weapons used. The investigation found no evidence that the PSD was attacked and that the reaction of the PSD was in any event disproportionate. The MOD also said the findings show that some PSDs do not have adequate procedures to give warning during escalation of force incidents, such as the use of flash-bangs, firing rubber bullets, or using compressed air horns. The MOD said the committee tried to meet with Blackwater representatives and employees, but was not able to and that therefore the committee's findings represent only the accounts of those injured and of witnesses. He emphasized his hope that the Joint Commission will provide the missing information necessary to know the full truth about the incident. He said that he had personally briefed Prime Minister Maliki on the results of the report on October 6.

(C) 7. The DCM emphasized the seriousness with which the U.S. Government takes this incident, as demonstrated by the agreement between Secretary Rice and Prime Minister Maliki which led to the formation of the Joint Commission. She said the goal of the commission was to review not only this incident but PSD operations in general with the goal of protecting the Iraqi public and preventing similar incidents from occurring in the future, while permitting Embassy personnel the security required to do their jobs. She emphasized that the Embassy is committed to complying with Iraqi laws to the extent possible, but that much of Iraq remains dangerous and requires the use of PSDs, and that the need for this support will continue, even as changes are made to how they operate.

(C) 8. The DCM provided a brief overview of the various inquiries into the incident (RSO, MNFI and FBI), and explained that the review panel led by Ambassador Patrick Kennedy is charged with looking at overall PSD operations in Iraq rather than focusing on the specific incident, and has already provided recommendations to Secretary Rice. The DCM explained that the FBI investigation is just getting underway and that while the USG is committed to sharing the results of its investigation with the GOI, results from the FBI investigation may not be available because of limits on what can be released in cases where there may be criminal culpability. She said that the Embassy would consider what information could be shared at this stage in the investigation and report to the commission as much information as possible. The co- chairs agreed that once the USG had considered what information could be shared with the commission, the next meeting of the commission would be scheduled.

(C) 9. The DCM said that in addition to the specific incident she hoped the commission could look at broader issues, including a) PSD licensing, b) reliable reporting of alleged incidents involving PSDs, and c) condolence payments.

a) Licensing: The MOD said that Blackwater had a license but that it expired about 4-5 months before the September 16

incident. He said that there is a new piece of legislation making its way through sub-committees in the Council of Representatives (COR) regarding security contractors, including licensing and rules of engagement, and that the MOD would give a copy of this law to the Embassy. (Note: According to information obtained from the Council of Representatives (COR) Legal Committee Chairman, in January 2007 the COR worked on a draft to rescind CPA order 17 altogether, but this was abandoned. The Legal Committee is now working on a draft which would eliminate immunities for private security companies. End note.)

b) Reporting Channel: The DCM and MOD discussed the need for a regular reporting channel for PSD incidents and agreed that an Embassy representative would attend an existing weekly GOI/MNF-I meeting on security, at which such events were discussed.

c) Condolence Payments: The DCM asked how incidents involving claims for injury or death are usually handled, including those involving PSDs. The MOD cautioned that condolence payments must be considered carefully, as the result could be an unlimited number of claims. In this case, the GOI has a definitive list of those harmed in the incident, but in other cases it may be more difficult to obtain reliable information. The MOD declined to suggest an appropriate payment amount.

(C) 10. As a matter of procedure, the DCM offered to provide the MOD with draft minutes and action items after each meeting, which once agreed upon, will provide direction for their staffs at the working level.

Press

(C) 11. While the MOD was reluctant to release too much detail about the Joint Commission's work, he agreed to the release of a joint statement drafted by the Embassy and MOD's press spokesperson. The text of this announcement, released on the evening of October 7, is repeated below:

(U) "Joint Announcement by the Iraqi Ministry of Defense and the Embassy of the United States in Baghdad on the Joint Commission of Inquiry on Protective Security Detail Operations

-- On October 7, the Iraqi Ministry of Defense Abdulqadir Mohammed Jassim and the U.S. Embassy Deputy Chief of Mission Ambassador Patricia A. Butenis co-chaired the first meeting of the Joint Commission of Inquiry on Protective Security Detail Operations.

-- The Minister and Ambassador Butenis expressed the mutual commitment of the Iraqi Government and the U.S. Government to work together to evaluate issues of safety and security related to personal security detail operations in Iraq.

-- The Commission will issue a report containing joint policy recommendations to the Governments of Iraq and the United States, including specific suggestions for improving Iraqi and U.S. procedures, with the goal of ensuring that personal security detail operations do not endanger public safety.

-- The two sides agreed to continue their coordination and to complete the process of inquiry in order to prevent the recurrence of any incidents in the future".

Comment

(C) 12. The Iraqi commission members' tone was appropriately sober but positive. We will consult with the Department regarding how much information we may share with the commission, and other issues, as we seek to be as responsive as possible in addressing the GOI and the Iraqi public's concerns.

